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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.294 OF 2006

The Commissioner of Central Excise ..Appellant.

V/s.

Shri Bihari Pinjomal Asrani & Anr. ..Respondents.

Mrs.S.V.Bharucha with S.D.Bhosale and H.P. Chauturvedi for appellant.

Mr.P.V.Patankar for respondents.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 1ST NOVEMBER, 2007.

P.C. :-

This appeal is filed by the revenue against the order of the CESTAT whereby the revenue is aggrieved by the order of the CESTAT reducing the penalty imposed on the respondent No.1. We have perused the impugned order. CESTAT on facts had come to the conclusion that the partner had played a role in evasion of duty and, therefore, imposed the penalty. However, considering the facts and circumstances on record, the penalty was reduced from Rs.1,00,000/- to Rs.25,000/-. This was within the discretion of the

Tribunal. Nothing has been brought to our attention to show that the said exercise of discretion is perverse. Once it is held that it was within the discretion of the Tribunal of reducing the penalty, the question of law formulated in so far as the partner of the firm is concerned, would not arise. Consequently, the appeal is dismissed.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**